

AMENDED IN SENATE JANUARY 23, 2008

AMENDED IN SENATE SEPTEMBER 7, 2007

AMENDED IN ASSEMBLY JUNE 6, 2007

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY APRIL 30, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 1491**

**Introduced by Assembly Member Benoit Jones**  
(Principal coauthor: Senator Corbett)

February 23, 2007

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*An act to amend Sections 70321, 70374, and 70402 of, and to add Section 70356.5 to, the Government Code, relating to court facilities, and declaring the urgency thereof, to take effect immediately. An act to amend Section 70321 of the Government Code, relating to court facilities.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 1491, as amended, Benoit Jones. Court facilities.

~~(1) Existing~~

*Existing* law requires the Judicial Council, in consultation with the superior court of each county and the county, to enter into agreements concerning the transfer of responsibility for court facilities from that county to the Judicial Council. Transfer of responsibility may occur not earlier than July 1, 2004, and not later than June 30, 2007. ~~Existing law requires counties to remit to the state, for deposit in the Court Facilities~~

~~Trust Fund, county facilities payments composed of the costs of various items related to court facility operation and maintenance.~~

~~This bill would extend the deadline for the transfer of responsibility for court facilities to December 31, 2008. The bill would require that any transfer agreement that has not been executed by June 30, 2008, contain a requirement that the county pay an additional amount annually, to be calculated pursuant to a specified method. The bill would further require that any transfer agreement that is executed on and after July 1, 2008, contain a requirement that the county facilities payment be calculated pursuant to the greater of 2 specified methods. The bill would make related, conforming changes.~~

~~(2) Existing law creates the State Court Facilities Construction Fund, which is financed by certain state court construction penalty assessments, parking surcharges, and filing fee surcharges on civil actions, as specified. Existing law provides that the money in this fund may only be for specified purposes, which include the acquisition, rehabilitation, construction, and financing of court facilities, as defined.~~

~~This bill would correct an erroneous cross-reference in these provisions.~~

~~(3) This bill would declare that it is to take effect immediately as an urgency statute.~~

*This bill would make a technical, nonsubstantive change.*

Vote:  $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 70321 of the Government Code is  
2     amended to read:  
3     70321. The Judicial Council, in consultation with the superior  
4     court of each county and the county shall enter into agreements  
5     concerning regarding the transfer of responsibility for court  
6     facilities from that county to the Judicial Council. The agreements  
7     shall be negotiated between July 1, 2003, and June 30, 2007,  
8     inclusive. Transfer of responsibility may occur not earlier than  
9     July 1, 2004, and not later than June 30, 2007. On or before July  
10    1, 2003, each county shall designate those persons who shall  
11    negotiate the agreements on behalf of the county and shall give  
12    the Judicial Council the names of those persons. The name of a  
13    person designated by a county to negotiate on its behalf may be

1 changed by the county at any time by providing written notice to  
2 the Judicial Council.

3 ~~SECTION 1. Section 70321 of the Government Code is~~  
4 ~~amended to read:~~

5 ~~70321. (a) The Judicial Council, in consultation with the~~  
6 ~~superior court of each county and the county, shall enter into~~  
7 ~~agreements concerning the transfer of responsibility for court~~  
8 ~~facilities from that county to the Judicial Council. The agreements~~  
9 ~~shall be negotiated between July 1, 2003, and December 31, 2008,~~  
10 ~~inclusive. Transfer of responsibility may occur not earlier than~~  
11 ~~July 1, 2004, and not later than June 30, 2007. On or before July~~  
12 ~~1, 2003, each county shall designate those persons who shall~~  
13 ~~negotiate the agreements on behalf of the county and shall give~~  
14 ~~the Judicial Council the names of those persons. The name of a~~  
15 ~~person designated by a county to negotiate on its behalf may be~~  
16 ~~changed by the county at any time by providing written notice to~~  
17 ~~the Judicial Council.~~

18 ~~(b) (1) Notwithstanding any other provision of law, any transfer~~  
19 ~~agreement that has not been executed by June 30, 2008, shall also~~  
20 ~~contain a requirement that the county pay, in addition to the county~~  
21 ~~facilities payment established pursuant to Article 5 (commencing~~  
22 ~~with Section 70351), an annual and continuing amount from the~~  
23 ~~date of transfer to be calculated as described in paragraph (2).~~

24 ~~(2) The amount required by paragraph (1) shall be calculated~~  
25 ~~by multiplying the county facilities payment by the amount of the~~  
26 ~~United States Bureau of Economic Analysis local implicit price~~  
27 ~~deflator for California.~~

28 ~~(c) Notwithstanding any other provision of law, a transfer~~  
29 ~~agreement that is executed on or after July 1, 2008, shall contain~~  
30 ~~either a requirement for a county facilities payment calculated~~  
31 ~~pursuant to Section 70356.5 or a requirement for a county facilities~~  
32 ~~payment calculated pursuant to subdivision (b), whichever amount~~  
33 ~~is greater.~~

34 ~~SEC. 2. Section 70356.5 is added to the Government Code, to~~  
35 ~~read:~~

36 ~~70356.5. (a) A county facilities payment calculated under this~~  
37 ~~section, pursuant to the requirements of subdivision (c) of Section~~  
38 ~~70321, shall be composed of amounts for the following items that~~  
39 ~~are based on the expenditures made by the county for facility~~

1 operation and maintenance for fiscal year 2006–07 and that are  
2 adjusted by the multiplier described in subdivision (b):

3 (1) ~~Maintenance and repair, including, but not limited to,~~  
4 ~~maintenance and repair of the building and its components, utility~~  
5 ~~systems, security equipment, and interior and exterior lighting.~~

6 (2) ~~Purchase, installation, modernization, and maintenance of~~  
7 ~~major building systems not of an ongoing nature, including, but~~  
8 ~~not limited to, plumbing, HVAC (heating, ventilation, and~~  
9 ~~air-conditioning), electrical, and vertical transportation.~~

10 (3) ~~A special repair.~~

11 (4) ~~Landscaping and grounds maintenance services for court~~  
12 ~~facilities.~~

13 (5) ~~Maintenance of parking spaces or garages dedicated to the~~  
14 ~~court or for jurors.~~

15 (6) ~~County facility management and administrative costs directly~~  
16 ~~or indirectly associated with trial court facilities, including, but~~  
17 ~~not limited to, management, supervision, planning, design,~~  
18 ~~department administration, payroll, finance, procurement, and~~  
19 ~~program management.~~

20 (7) ~~The cost of utilities, including, but not limited to, natural~~  
21 ~~gas, heating oil, electricity, water, sewage, and garbage. Utility~~  
22 ~~costs shall be included without regard to whether payment of the~~  
23 ~~costs was made by the county, the court, or another entity except~~  
24 ~~that the amount of specific utility costs may not be included in the~~  
25 ~~county facilities payment if all of the following conditions are~~  
26 ~~satisfied:~~

27 (A) ~~A lease expressly provides that the utilities are to be paid~~  
28 ~~by the lessor.~~

29 (B) ~~There is no payment by the lessee for the utilities, except~~  
30 ~~as part of the lease payment.~~

31 (C) ~~The lease payment is included in the county facilities~~  
32 ~~payment.~~

33 (8) ~~The cost of insurance.~~

34 (A) ~~The amount of insurance shall not include the cost of any~~  
35 ~~insurance required by any agreement involving bonded~~  
36 ~~indebtedness on the facility to the extent that the cost of insurance~~  
37 ~~is greater than the cost of commercial insurance coverage on the~~  
38 ~~building.~~

39 (B) ~~The determination of the insurance costs may consider the~~  
40 ~~costs of commercial insurance coverage for a fair and reasonable~~

1 level of insurance and the costs of self-insurance. The amount of  
2 the insurance costs shall be subject to negotiation between the  
3 Judicial Council and the county.

4 (C) To the extent the responsibility for grounds is transferred,  
5 the insurance costs for court facilities shall include, but not be  
6 limited to, the cost of liability insurance relating to the grounds.

7 (9) Court facilities rental or leasing costs calculated pursuant  
8 to Section 70359.

9 (b) The amount required by subdivision (a) shall be calculated  
10 by multiplying the county facilities payment by the amount of the  
11 United State Bureau of Economic Analysis local implicit price  
12 deflator for California.

13 SEC. 3. Section 70374 of the Government Code, as amended  
14 by Chapter 176 of the Statutes of 2007, is amended to read:

15 70374. (a) The Judicial Council shall annually recommend to  
16 the Governor and the Legislature the amount proposed to be spent  
17 for projects paid for with money in the State Court Facilities  
18 Construction Fund. The use of the appropriated money is subject  
19 to subdivision (f) of Section 70391.

20 (b) Acquisition and construction of court facilities shall be  
21 subject to the State Building Construction Act of 1955  
22 (commencing with Section 15800) and the Property Acquisition  
23 Law (commencing with Section 15850), except that, (1)  
24 notwithstanding any other provision of law, the Administrative  
25 Office of the Courts shall serve as an implementing agency upon  
26 approval of the Department of Finance, and (2) the provisions of  
27 subdivision (c) shall prevail. Acquisition and construction of  
28 facilities are not subject to the provisions of the Public Contract  
29 Code, but shall be subject to facilities contracting policies and  
30 procedures adopted by the Judicial Council after consultation and  
31 review by the Department of Finance.

32 (c) Money in the State Court Facilities Construction Fund shall  
33 only be used for either of the following:

34 (1) To acquire, rehabilitate, construct, or finance court facilities;  
35 as defined by subdivision (d) of Section 70301.

36 (2) To rehabilitate one or more existing court facilities in  
37 conjunction with the construction, acquisition, or financing of one  
38 or more new court facilities.

39 (d) Except as provided in Section 70374.2, 25 percent of all  
40 money collected for the State Court Facilities Construction Fund

1 from any county shall be designated for implementation of trial  
2 court projects in that county. The Judicial Council shall determine  
3 the local projects after consulting with the trial court in that county  
4 and based on the locally approved trial court facilities master plan  
5 for that county.

6 (e) ~~The following provisions shall prevail over provisions of~~  
7 ~~the State Building Construction Act of 1955 (Part 10.6~~  
8 ~~(commencing with Section 15800) of Division 3 of Title 2) in~~  
9 ~~regard to buildings subject to this section.~~

10 (1) ~~The Administrative Office of the Courts shall be responsible~~  
11 ~~for the operation, including, but not limited to, the maintenance~~  
12 ~~and repair, of all court facilities whose title is held by the state.~~  
13 ~~Notwithstanding Section 15807, the operation of buildings under~~  
14 ~~this section shall be the responsibility of the Judicial Council.~~

15 (2) ~~Notwithstanding Section 15808.1, the Judicial Council shall~~  
16 ~~have the responsibility for determining whether a building under~~  
17 ~~this act shall be located within or outside of an existing public~~  
18 ~~transit corridor.~~

19 (3) ~~The buildings under this section are subject to Section~~  
20 ~~15814.12 concerning cogeneration and alternative energy sources~~  
21 ~~at the request of, or with the consent of, the Judicial Council. Any~~  
22 ~~building acquired by the state pursuant to this section on or before~~  
23 ~~July 1, 2007, is not subject to subdivision (b) of Section 15814.12~~  
24 ~~concerning acquiring of cogeneration or alternative energy~~  
25 ~~equipment if the building when acquired, already had cogeneration~~  
26 ~~or alternative energy equipment. Section 15814.17 only applies to~~  
27 ~~buildings to which the Judicial Council has given its consent under~~  
28 ~~subdivision (a) of Section 15814.12.~~

29 SEC. 4. ~~Section 70402 of the Government Code is amended~~  
30 ~~to read:~~

31 70402. (a) ~~Any amount in a county's courthouse construction~~  
32 ~~fund established by Section 76100, a fund established by Section~~  
33 ~~70622 in the County of Riverside, a fund established by Section~~  
34 ~~70624 in the County of San Bernardino, or a fund established by~~  
35 ~~Section 70625 in the City and County of San Francisco, shall be~~  
36 ~~transferred to the State Court Facilities Construction Fund at the~~  
37 ~~later of the following dates:~~

38 (1) ~~The date of the last transfer of responsibility for court~~  
39 ~~facilities from the county to the Judicial Council or December 31,~~  
40 ~~2008, whichever is earlier.~~

1     ~~(2) The date of the final payment of the bonded indebtedness~~  
2     ~~for any court facility that is paid from that fund is retired.~~

3     ~~(b) If the responsibility for one or more facilities does not~~  
4     ~~transfer, the county's courthouse construction fund shall retain~~  
5     ~~that portion of the total money in the fund as the square footage~~  
6     ~~of the facilities that do not transfer bears to the total square footage~~  
7     ~~of court facilities in that county.~~

8     ~~SEC. 5.— This act is an urgency statute necessary for the~~  
9     ~~immediate preservation of the public peace, health, or safety within~~  
10    ~~the meaning of Article IV of the Constitution and shall go into~~  
11    ~~immediate effect. The facts constituting the necessity are:~~

12    ~~The current deadline for the transfer of responsibility for court~~  
13    ~~facilities to the state pursuant to Chapter 1082 of the Statutes of~~  
14    ~~2002 will not be met. In order to allow continued negotiation and~~  
15    ~~the completion of that transfer, it is necessary that the deadline of~~  
16    ~~June 30, 2007, be extended to December 31, 2008.~~